

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, March 8, 2012
REGULAR MEETING
7:00 p.m.

A. CALL TO ORDER – The meeting was called to order at 7:00 p.m.

B. PLEDGE OF ALLEGIANCE – Led by Commissioner Tucker

C. ROLL CALL

PRESENT: Ameri, Kramer, Myers, Toerge, and Tucker

ABSENT: Hillgren (Excused)

Staff Present: Kimberly Brandt, Community Development Director; Brenda Wisneski, Deputy Community Development Director; and Leonie Mulvihill, Assistant City Attorney

D. PUBLIC COMMENTS

Interested parties were invited to address the Commission on items not on the agenda. There was no response and the public comments were closed.

E. REQUEST FOR CONTINUANCES – None.

F. CONSENT ITEMS

ITEM NO. 1 Minutes of February 23, 2012, Study Session

Motion made by Commissioner Kramer and seconded by Commissioner Tucker, and carried (4-0) with Commissioner Ameri abstaining and Commissioner Hillgren absent to approve the minutes of the Study Session of February 23, 2012, as corrected.

Interested parties were invited to address the Commission on this item. There was no response and the public comment section for this item was closed.

AYES: Kramer, Myers, Toerge, and Tucker

NOES: None.

ABSTENTION: Ameri

ABSENT(EXCUSED): Hillgren

ITEM NO. 2 Minutes of February 23, 2012, Regular Meeting

Motion made by Commissioner Tucker and seconded by Commissioner Kramer, and carried (4-0) with Commissioner Ameri abstaining and Commissioner Hillgren absent to approve the minutes of the Regular Meeting of February 23, 2012, as submitted.

Interested parties were invited to address the Commission on this item. There was no response and the public comment section for this item was closed.

AYES: Kramer, Myers, Toerge, and Tucker

NOES: None.

ABSTENTION: Ameri

ABSENT(EXCUSED): Hillgren

G. PUBLIC HEARING ITEMS**ITEM NO. 3** Alternative Setback Determination - (PA2012-015)
211 Orchid Avenue

Chair Toerge read the title to the aforementioned item, opened the public hearing and called for a report from staff.

Assistant Planner Kay Sims presented details of the report addressing location, division of the lot into two properties, how the northerly portion of the property became subject to the City's standard setbacks and reorientation of the property and application of the setbacks has resulted in the property having a smaller buildable area than other properties in the area. She addressed a provision in the zoning code that allows the Community Development Director to approve alternative setbacks for properties that have been sub-divided so that the orientation of the property is not consistent with the orientation of other lots in the neighboring area. The Director has deferred the item to the Planning Commission to determine the appropriate alternative setbacks. She addressed existing conditions, existing residence, surrounding properties, setbacks, existing standard required setbacks, and buildable area; requested setbacks and staff recommended setbacks with resulting buildable area and addressed floor area ratios. She stated that staff believes that the 20-foot setback in the front should be maintained and that recommended setbacks for rear and sides are consistent with adjacent lots.

Discussion followed regarding staff's determination to present this issue to the Planning Commission rather than handle it administratively.

Community Development Director Brandt reported on a previous alternative setback determination and the need for further discussion on the item. The process of considering alternative setback will be modified in the next zone code clean-up. In the meantime, it was determined that these types of cases would be referred to the Planning Commission for review.

Commissioner Kramer agreed that the issues should be vested at staff level but until it is so determined, it was advisable to present such issues to the Planning Commission.

Troy Davis reported having built several homes in Newport Beach and being familiar with the Planning and Building Departments. He was asked by the Prairie Family Estate to provide a presentation and they intend to sell the property and want to bring it into compliance with development standards. He stated disagreement with staff recommendations especially relative to front setbacks. He referenced setbacks of adjacent homes and noted they would like to keep the front setback at eight (8) feet and addressed related floor area ratios. He felt that the proposal fit within the range in the neighborhood. He expressed concerns over views and support of the plan by the architect. He addressed build-ability and valuation and presented specific examples of approved twenty (20)-foot setbacks. He opined that the lot is not a typical lot size determination.

Walter Seagreen indicated support for the recommendations of staff.

Carl Drews, representing his parents who live adjacent to the subject property, expressed concern with a negative impact to his parent's property to the back yard. He felt the applicant's proposal is not in keeping with standard design principles. He questioned a similar determination where 10-foot setbacks have been reduced to four (4)-feet. He felt the proposal does not support sustainability of open space and does not give consideration to sunlight or noise. He voiced issues regarding inconsistencies relative to the application of rear yard and front yard setbacks.

Jim Mosher thanked the Director for referring the item to the Planning Commission noting that at a previous episode, staff accidentally overturned action by the Planning Commission. He commented positively on the process being followed.

Todd Remington, appraiser, described functional obsolescence and noted that the tastes of the property owners in Newport Beach has been to maximize the livable area of a property as well as the view. He felt what is being proposed on the subject property goes against the standards in the area. He stated that by not being able to maximize the view from the property, it would significantly impact the marketability of the property. He also addressed external obsolescence which included zoning.

Robin Perry-Hillard thanked the Commission for the opportunity to support their application. She indicated that her parents loved the property and presented pictures of changed setbacks stating that they want to conform to other

properties in the neighborhood. They would like to build the home to its full potential. She asked to be allowed the same level of fairness as shown adjacent homes.

Debra Perry-Hillard spoke of her parents, their love of the property and their plans to conform to neighborhood properties. She stated that the changes by staff are not acceptable and would create a long and narrow building pad and will have a negative impact on the property's value.

Sandra Perry-Hillard stated concurrence with what her sisters have stated and thanked the Commission for its consideration.

Seeing and hearing no one else wishing to address the Commission on this item, the public hearing was closed.

Motion made by Commissioner Myers to approve the lot setback as applied by the applicant. The motion did not carry for lack of a second.

Discussion followed regarding the current setback for the property on Orchid. Staff noted that it was 20 feet and added that it compared the floor area ratio (FAR) with 3528 Ocean Boulevard because the lot is similar in size and area. However, properties that are more typical have a larger FAR and staff offered as a compromise to allow extra floor area for the property.

Chair Toerge stated that no preference has been set and disagreed with the assertion of functional obsolescence. He addressed possible choices and felt that the rear yard setback should be maintained at 10 feet, with a 20-foot setback for half the lot and a 10-foot setback for the other half of the lot.

Commissioner Tucker addressed the purpose for the suggested setbacks.

Community Development Director Brandt affirmed a tiered setback could be set for the front and reported with the recommended setbacks, the floor area ratio would be .83.

Commissioner Tucker suggested a continuance with a proposal to see if the applicant is interested in doing so.

Motion made by Commissioner Ameri and seconded by Commissioner Myers to continue the item to the Planning Commission meeting of April 5, 2012.

Planning Commission Members conducted a straw vote regarding the recommended variable front setback.

The straw vote resulted as follows:

AYES:	Ameri and Toerge
NOES:	Kramer, Myers, and Tucker
ABSTENTION:	None.
ABSENT(EXCUSED):	Hillgren

The applicant's representative did not agree to the variable setback.

The motion made by Commissioner Ameri carried with the following roll call vote:

AYES:	Ameri, Kramer, Myers, and Toerge
NOES:	Tucker
ABSTENTION:	None.
ABSENT(EXCUSED):	Hillgren

ITEM NO. 4 Height of Fences, Hedges, Walls and Retaining Walls Code Amendment No. CA2012-001 (PA2012-018)

Chair Toerge read title to the aforementioned item, opened the public hearing, and called for a report from staff.

Principal Planner Jim Campbell presented details of the report and referenced the Zoning Code Update of 2010 and this is one of the first "clean up" amendments for the zoning code. Staff noted that the method by which fence heights are measured was changed to allow and facilitate redevelopment of lots on Balboa Island. Staff presented examples of projects illustrating wall and fence heights. Staff addressed a variety of clarifying changes needed and focused on substantive changes relative to nine (9) foot walls with the upper three (3) feet, open. Staff addressed maximizing the flexibility of design and addressed additional privacy between the homes as well as alternative standards. Staff reported that this will be a temporary situation to help provide a measure of privacy and open air in the side yard.

Staff indicated that there are several other changes to ensure internal consistency between sections, height of accessory structures and presented recommendations for consideration by the Commission.

Discussion followed regarding review by local architects and their opinions. Staff indicated that after speaking to a local architect, he indicated support for the provisions recommended. Discussion continued regarding requirements for side fences and possible alternative solutions. Ensuing discussion pertained to obtaining compliance and grade differentials.

Motion by Commissioner Kramer and seconded by Commissioner Toerge, and carried (5-0) with Commissioner Hillgren absent to adopt a resolution recommending adoption of Code Amendment No. CA2012-001, with the added changes as stated by staff.

Interested parties were invited to address the Commission on this item.

Jim Mosher noted a typographical error regarding adoption of the zoning code update.

No one else wished to address the Commission on this item and the public hearing was closed.

In response to an inquiry from the Commission, staff addressed initiation of the item by Council.

AYES: Ameri, Kramer, Myers, Toerge, and Tucker
NOES: None.
ABSTENTION: None.
ABSENT(EXCUSED): Hillgren

H. NEW BUSINESS

I. STAFF AND COMMISSIONER ITEMS

ITEM NO. 5 Community Development Director Kimberly Brandt announced that at the next City Council meeting of March 13, 2012, the Council will be considering the Golf Realty Fund application for the Newport Beach Country Club as well as the appointment of a new Planning Commissioner.

ITEM NO. 6 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

ITEM NO. 7 Commissioner Kramer requested an excused absence on March 22, 2012.

ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Toerge adjourned the meeting at 8:47 p.m.